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FISCAL IMPACT STATEMENT

LS 6753

BILL NUMBER: SB 280

NOTE PREPARED: Jan 18, 2008

BILL AMENDED: Jan 16, 2008

SUBJECT: Marion County Government.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Township Trustees and Board: It allows the city-county legislative body to adopt an ordinance, approved by the mayor, that abolishes the offices of township trustee and township board effective January 1, 2011, and transfers all township duties and responsibilities (except for the duties and responsibilities of the township assessor) to the county.

Law Enforcement: It provides that on July 1, 2008:

- (1) the mayor of the consolidated city is responsible for the consolidated law enforcement agency; and
- (2) the county sheriff's department, under the direction and control of the sheriff, is responsible only for county jail operations and facilities, security for city and county buildings and property, service of civil process and collection of taxes under tax warrants, and sex and violent offender registration.

Fire Services: It provides that on January 1, 2009, the fire departments of all the following are consolidated into the fire department of the consolidated city:

- (1) The townships in the county containing the consolidated city.
- (2) A fire protection territory in the county containing the consolidated city.

It also provides that a transfer of duties between units of government results in the transfer of property, equipment, records, rights, contracts (including labor contracts), and indebtedness. The bill provides that a firefighter who is a member of the 1937 or 1977 Fund remains a member of the same fund after the

consolidation. It requires the consolidated fire department to develop a strategic plan to determine resource requirements and resource deployments for the consolidated fire department.

Excluded City Fire Services: It specifies that the fire department of an excluded city shall be consolidated into the fire department of the consolidated city if the voters of the excluded city approve the consolidation in a local public question.

Emergency Responder: The bill also requires the mayor of the consolidated city to establish a professional standards board with responsibility after December 31, 2008, for establishing, validating, and maintaining emergency responder certification and credentialing requirements and procedures. It provides that the requirements and procedures must be in accordance with the National Incident Management System and appropriate national professional standards and certification organizations and boards. It specifies that a subcommittee of the professional standards board, under the direction of a board-certified emergency physician, is responsible for certification and credentialing of emergency medical responders.

Property Tax: It exempts from the property tax levy limits any amounts imposed by the consolidated city or the county to fund former township indebtedness. It establishes a maximum property tax levy for the consolidated city for property taxes payable in 2009, 2010, and 2011 that is the sum of the city's 2009 maximum levy plus the combined amounts levied in 2008 by the townships for firefighting.

It establishes maximum property tax levies for the county and the townships for property taxes payable in 2011 that reflect:

- (1) small claims court responsibilities to the county; or
- (2) if an ordinance is adopted to abolish township government, the transfer of all remaining township responsibilities (except for the duties of township assessor) to the county.

Cumulative Building and Equipment Fund for Fire Protection: It specifies that the balance in the cumulative building and equipment fund for fire protection and related services of each entity whose fire department is consolidated into the fire department of the consolidated city be transferred to the consolidated city's cumulative building and equipment fund for fire protection and related services.

Distributive Shares of County Option Income Tax: It provides that after 2010, the monthly distributive shares of county option income taxes that would be distributed to a township for which township government is abolished shall instead be distributed as additional distributive shares to Indianapolis/Marion County.

Small Claims Court: It abolishes the Marion County Township Small Claims Courts, and adds four judges to the Marion Superior Court effective January 1, 2011.

Four New Marion County Superior Courts: The bill requires the Governor to appoint the four judges, not more than two of whom may be members of the same political party, for terms beginning January 1, 2011, and ending December 31, 2014. It specifies that the initial election of the four judges takes place at the general election held on November 4, 2014.

Warrant Officers: As of January 1, 2011, the bill requires a warrant officer whose duties include acting as a process server in Marion County to successfully complete at least the pre-basic training course for law enforcement officers established by the Law Enforcement Training Board before the individual performs any duties for the circuit court or the superior court. It provides that warrant officers are compensated solely through the payment of a salary in an amount determined by the auditor of the county and approved by the

city-county council.

Abolished Entities: It provides that beginning in 2008, the city-county council of Marion County may adopt an ordinance, approved by the mayor, to:

- (1) abolish one or more included towns or the Ben Davis Conservancy District; and
- (2) transfer the duties and powers of an abolished entity to the consolidated city.

Repeals: It repeals current provisions concerning the Marion County Township Small Claims Courts.

Effective Date: January 1, 2008 (retroactive); July 1, 2008; January 1, 2009; January 1, 2011.

Summary of NET State Impact: (Revised) The elimination of the Township Small Claims Courts will increase revenues and costs for state and local government.

The Marion County Township Small Claims Courts have exclusive jurisdiction over small claims matters in Marion County. Under this bill, these courts are eliminated and 4 new superior courts would be added to the existing 36 Marion Superior Courts.

Under the current small claims courts, court fees are distributed to the township, the constable, and the state. For new superior courts, the court fees will be distributed to the state and Marion County. The state and the county will also incur new expenses for four new judges (state) and four new courtroom operating costs (county). Assuming that the number of small claims cases filed each year does not change, the fee revenue the county receives should equal the new expenses undertaken. The state will receive more fee revenue than the cost of the salaries and benefits of the new judges. The components of these revenues and expenditures are explained in the sections below.

Overall, LSA projects that the new revenue collected from these small claims filings for the state General Fund will exceed the added costs for these new courts.

Net Impact on State General Fund (in Millions) To Create Four New Marion Superior Courts and Eliminate Township Small Claims Courts				
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
New Revenues from Filing Fees	\$0.79	\$1.58	\$1.58	\$1.58
Expenditures for New Judges	\$0.33	\$0.67	\$0.68	\$0.70
New State Revenue	\$0.46	\$0.91	\$0.90	\$0.88

Explanation of State Expenditures: *Four New Marion County Superior Courts:* By FY 2012 when the courts are operating for a full 12 months, the cost for four additional judges on the Marion Superior Court is estimated at \$668,004, including salary adjustments for inflation and fringe benefits.

(Revised) *Department of Local Government Finance:* The Department of Local Government Finance (DLGF) may incur additional expenses to adjust the maximum permissible property tax rate and levy and to determine the fund balance transfers, if the city-county council passes an ordinance abolishing township government or other entities. These functions are within the current scope of agency work.

Background and Additional Details-

Salaries of Judicial Officers – The salary of Superior Court judges is adjusted each year either by the General Assembly action or by an automatic adjustment by the amount that executive staff salaries in the same salary level are increased.

For this analysis, judicial officers are assumed to receive a 2.5% annual salary increase each year between FY 2009 and 2014.

State expenditures associated with these new court officers will also depend on the costs of fringe benefits for state employees. While most of the benefits are based on a percentage of the salaries of the employee, the costs of medical insurance for these persons will depend on future decisions of the executive branch. The extent to which the state would pass along any increase in health insurance costs to employees is unknown.

The following costs are expected for FY 2009 based on the salaries specified in the statute and by a projected increase in salary for judicial officers of 2.5% between FY 2008 and 2009.

Salaries and Benefits for Court Personnel in FY 2009	
<u>Benefits</u>	<u>Judge</u>
Salary	\$119,893
Life Insurance	\$432
Indiana Judicial Conference	\$1,000
Social Security	\$9,172
Retirement	\$11,933
Disability Insurance	\$2,734
Deferred Compensation Match	\$390
Health, Dental, and Vision (blended rate)	\$9,524
Total Cost Per Judicial Officer	<u>\$155,077</u>

Projected Salaries 2011 - 2014– The following table shows estimates of what the total salaries (base and fringe benefits) of these court officers could be between FY 2011 and FY 2014 if their base salaries are increased each year by 2.5%, continuing from FY 2009 through 2014.

Projected Base Salaries and Fringe Benefits by Judicial Officer, FY 2009 through 2014							
		<u>2011</u>		<u>2012</u>		<u>2013</u>	<u>2014</u>
Superior Court Judge Salary		\$162,928		\$167,001		\$171,176	\$175,455
Number of New Courts	x	<u>2</u>	<u>x</u>	<u>4</u>	<u>x</u>	<u>4</u>	<u>4</u>
New State Expenditures		\$325,856		\$668,004		\$684,704	\$701,820

Explanation of State Revenues: (Revised) *Court Fees from New Court Filings* -- The state General Fund is estimated to receive \$1.58 M from the Small Claims Filing Fee for new court filings annually. Any new revenue that the state General Fund receives from court fees will depend on the number of new small claims

filings that Marion Superior Court will receive.

Background and Additional Details–

Plaintiffs who file in either the Township Small Claims Courts or the Superior Courts pay several fees when filing. The Judicial Salaries Administrative Fee is an \$11 fee that is currently split 75% for the state General Fund and 25% for the townships. The state General Fund also receives 100% of the Court Administrative Fee, the Judicial Insurance Adjustment Fee, the Public Defense Administration Fee, and the Automated Record-keeping Fee.

Except for the Small Claims Filing Fee, all of the other fees are paid whether in the Marion County Superior Courts or the Township Small Claims Courts. Consequently, any new revenue that the state General Fund would receive from these new small claims filings in a Marion County Superior Court will be limited to the Small Claims Filing Fee of \$24.50.

	Marion Superior Courts	Township Small Claims Courts	Difference
Small Claims Filing Fee	\$24.50	-	\$24.50
Judicial Salaries Administrative Fee	\$8.25	\$8.25	\$0.00
Court Administration Fee	\$3.00	\$3.00	\$0.00
Automated Record-Keeping Fee	\$7.00	\$7.00	\$0.00
Public Defense Administration Fee	\$3.00	\$3.00	\$0.00
Judicial Insurance Adjustment Fee	\$1.00	<u>\$1.00</u>	<u>\$0.00</u>
Total New Fees	\$46.75	\$22.25	\$24.50

To estimate this new revenue, LSA used the small claims filings reported in the *2006 Indiana Judicial Report* for Marion County Township Small Claims Courts. LSA assumed that the court fee structure will remain unchanged and that 90% of all filers will pay the fee. The estimated new revenue is \$1.58 M.

	Small Claims Filings in Township Small Claims Courts		Total New Fees		Percent Paying		Added Revenue
New Revenue for State	71,854	x	24.50	x	90%	=	\$1,584,381

Summary of NET Local Impact: (Revised) *Elimination of Marion County Township Small Claims Courts and Creation of Four New Superior Courts* – For Marion County, the net effect of eliminating the current township small claims courts and creating four new superior courts is expected to be close to revenue neutral.

Net Impact (in Millions) on Marion County for New Courts To Create Four New Marion Superior Courts and Eliminate Township Small Claims Courts					
	2011	2012	2013	2014	2015
New Revenues from Filing Fees	\$1.56	\$1.56	\$1.56	\$1.56	\$1.56
Expenditures for New Courts	\$1.30	\$1.36	\$1.44	\$1.50	\$1.58
Net Revenue on Marion County	\$0.26	\$0.20	\$0.12	\$0.06	(\$0.02)

(Revised) *Summary of Other Provisions* - The bill has indeterminate fiscal impact on Marion County. The bill does not delete or diminish any responsibilities or administrative functions currently assigned in statute to township trustees, township boards, or other entities but rather allows the responsibilities to be transferred to the county if an ordinance is adopted. Fire protection services are transferred to the county from townships and fire protection districts, and, if ordinances are passed, excluded city fire protection services may be consolidated with the county. If the county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity governments more efficiently, cost savings will result.

Increased expenditures in the bill include one-time costs for transferring records and establishing standards for emergency responders. Providing pre-basic training for warrant officers will not increase costs for the county, but salary costs for process serving will increase.

Explanation of Local Expenditures: *Four New Marion County Superior Courts:* Each new court added to the Superior Court needs two bailiffs and two court reporters. The added operating costs for each new court (presented in the table below) are based on the reported costs of a court with civil jurisdiction in CY 2007 of \$268,000 and assume no jury costs are needed because the courts hear only small claims cases. LSA projects the future costs of these new courts using an annual inflation rate of 5% for each year between CY 2007 and CY 2011.

Costs of New Superior Courts for Marion County Assuming 5% Annual Increase										
Calendar Year		2011		2012		2013		2014		2015
Cost Per Court		\$325,756		\$342,043		\$359,146		\$377,103		\$395,958
Number of Courts	x	4	x	4	x	4	x	4	x	4
Costs of New Courts		\$1,303,023		\$1,368,174		\$1,436,583		\$1,508,412		\$1,583,832

Warrant Officers: Costs for process serving for small claims actions would be incurred by Marion County as a result of abolishing the township Small Claims Courts and requiring compensation solely through the county. [Marion County Small Claims Courts have constables who serve documents by certified mail or personal service. The compensation of the constable and the constable's deputies is from fees charged for

service. In 2006, the revenue for process service through certified mail was \$398,029 and for personal service was \$1,939,782.]

The pre-basic law enforcement course required under the bill is to be provided by the Law Enforcement Academy free of charge to individuals employed by law enforcement agencies. The unit pays the salary of the officer during training. [The pre-basic course is 40 hours, mostly completed online but containing interactive components for fire arms use and physical tactics. The Law Enforcement Academy is funded by the dedicated Law Enforcement Training Fund, which is funded by court fee revenue (under IC 33-19-7-5) as well as by General Fund appropriations.]

Law Enforcement: Any change in costs will be based on the administrative actions of the consolidated city mayor and the Marion County sheriff in executing the assigned responsibilities.

Fire Department Consolidation: The consolidated fire department is to develop a strategic plan to determine the resource requirements and deployments based on risk assessment models promulgated by the Center for Public Safety Excellence, Inc. or its successor. Any efficiency gained by consolidation of the fire departments will depend on the resource requirements and deployments enacted.

Assignment of Property and Debt: The consolidated fire department assumes or receives the personnel, agreements with labor organizations, indebtedness related to fire protection services and merit board duties. The consolidated city assumes the powers, duties, agreements, and liabilities of bonds or other indebtedness. Any property, equipment, records, rights, and contracts are conveyed to the consolidated fire department.

In addition, all township fire-related debt is assigned to the consolidated city, and, if an excluded city consolidates its fire department, any fire services-related debt held by an excluded city is consolidated as well. Under the bill, the city may not assume any amount of debt that would cause the consolidated city's total debt to exceed the current 2% debt limit, which equals 2% of 1/3 of the consolidated city's assessed valuation. The 2006 total township fire-related debt levy was \$2.7 M, and the only fire debt levy identified for an excluded city was \$575,000 in Lawrence.

Pension: After a consolidation, members of the 1937 Fund are to remain members of the 1937 Fund and members of the 1977 Fund are to remain members of the 1977 Fund. This should result in no fiscal impact.

Fire Service Information: There are approximately 35 fire stations in the eight suburban townships of Marion County. There are 8 additional stations in the three excluded cities that have fire departments.

Abolishing Townships: The city-county council may adopt an ordinance to abolish township government and transfer duties and powers to the consolidated city beginning on January 1, 2011. With the mayor's approval of the ordinance, the township trustee and township board are abolished, and all functions, duties, and responsibilities of the township trustee and board are transferred to the county. The assets, property rights, equipment, records, personnel, and contracts transfer to the county, as well. The following actions will occur if an ordinance is adopted to abolish township government.

Funds Transfers: Township debt service funds are to transfer to the county to pay any indebtedness or lease rental obligation for which the fund was established. Any remaining balance in the fund is to transfer to the county general fund. The township general funds are to transfer to the county, and the township

assistance funds are to transfer to the county township assistance fund. Counties are to pay expenses for township cemeteries from the cemetery fund for a county having a consolidated city.

Township Assistance: The county will have the same powers in administration of township assistance as the township trustee has, including reporting requirements, and the same standards and requirements for recipients apply to township assistance administered by the county. The county or its employees are subject to criminal penalties for disclosure of information. Any township assistance granted but not disbursed prior to January 1, 2011, is disbursed and administered by the county. The county also has all the rights, duties, and responsibilities for emergency medical services. Drugs and vaccines provided to indigents are to be paid through the county's township assistance fund.

Detrimental Plants: Duties concerning detrimental plants are conferred and imposed on the county for property in the county. The county legislative body will act to borrow money to meet emergency needs. Any fines collected for a Class C infraction concerning detrimental plants are to be placed in the appropriate county fund. The weed control board will include the county official responsible for the destruction of detrimental plants rather than township trustees.

Explanation of Local Revenues: *Projected Fee Revenue from Small Claims Filings* – Like the state General Fund, the Marion County general fund would receive new money if the cases filed in the Township Small Claims Courts are instead filed in Marion County Superior Court. LSA assumes that no changes will occur in the court fee structure between 2008 and 2011. Of the \$35 small claims fee, Marion County would receive 27%. Of the Judicial Salaries Fee, Marion County would receive 25%. Currently, because these cases are filed in Marion County Township Small Claims Courts, the 25% share stays with the township. Two other fees are also charged: a document storage fee and a small claims service fee.

The following table shows the fees that would be paid by plaintiffs that would be deposited into Marion County's general fund.

Small Claims Fees Paid in Marion Superior Courts Will Not be Paid in Township Small Claims Courts			
	Marion Superior Courts	Township Small Claims Courts	Difference
Small Claims Fee	\$9.45	\$0.00	\$9.45
Judicial Salaries Fee	\$2.75	\$0.00	\$2.75
Document Storage Fee	\$2.00	\$0.00	\$2.00
Small Claims Service Fee	\$10.00	\$0.00	\$10.00
	\$24.20	\$0.00	\$24.20

The estimated revenue is based on the reported filings in CY 2006 and assumes that 90% of all small claims plaintiffs would pay this fee.

New Revenue for Marion County General Fund					
Filings		Total New Fees	Percent Paying		Added Revenue
71,854	x	\$24.20	x	90%	= \$1,564,980

(Revised) *Abolishing Small Claims Court Maximum Levies:* If the city-county council does not pass an ordinance abolishing township government, the maximum levy for property tax increases for the small claims function only. It is the sum of the maximum property tax levy for the county in 2011 and the combined property levies of the consolidating entities attributable to small claims court operations for taxes first due and payable in 2010. The maximum levy for the township is reduced to zero.

Fire Service District Maximum Levies: In CY 2006, the maximum levy for the fire special service district was \$35.9 M. The CY 2006 maximum levy is lower than the 2005 amount (\$36.7 M) because not all of the 2005 levy authority was used. Assuming no growth, the greatest amount that may be transferred each year from the fire district maximum levy to the consolidated city's maximum levy is estimated at \$3.5 M.

Under current law, any levy authority that is not used in a year is lost. This provision allows the consolidated city to capture all unused levy authority in the fire special districts, including both intended migration amounts and the amount, if any, that would have been lost under current law due to a local decision to levy an amount that is less than the maximum.

Township and Other Fire Department Maximum Levies: The bill would increase the consolidated city's maximum levy by the amount of the fire fund maximum levy of each entity that joins the consolidated fire department.

Cumulative Fire Building Fund Levies: Any balance in the township building and equipment fund for fire protection and related services transfers to the county and may be used by the consolidated city for funding land, building, and equipment for fire protection and emergency services. The bill would establish a cumulative fire building fund in the consolidated city. Cash balances remaining in the joining entities' fire cumulative funds on the consolidation date would be transferred to the consolidated city's cumulative fire fund.

Maximum Property Tax Levies and Other Tax Distributions: The maximum general levy for ad valorem property taxes first due and payable in 2011 is the sum of the maximum general levy of the county and the combined maximum general levies of all the townships. Distributive shares of taxes other than property taxes, such as local option income tax, Financial Institutions Tax, and Motor Vehicle Excise Tax, will transfer to the county. If an excluded city consolidates its fire department, its county option income taxes will be reduced by a percentage that is not less than 66%.

The county levies ad valorem property tax to pay for pension benefits for members of the 1937 Firefighters' Pension Fund within the county's maximum permissible levy limit.

The county is to assume township indebtedness or lease rental obligations for fire services and may levy property taxes in any area of the county where the county provides firefighting and emergency services. The county may not assume indebtedness that will exceed the limitations on the amount of indebtedness the

county may incur.

For ad valorem property taxes first due and payable in 2011, the maximum firefighting levy is the combined levies for all of the townships, but not areas that are part of a fire protection district or territory. The county executive may adopt an ordinance to impose fees for ambulance services provided by a county fire department.

Abolishing Townships: A county administrator for township assistance will establish the amount needed to meet the cost of township assistance in the county, and the county legislative body will adopt the county budget with a uniform tax rate throughout the county to meet the estimated costs. All amounts levied are placed in the county township assistance fund.

Maximum Levy: If an ordinance is adopted to abolish township government, the maximum tax levy for property taxes first due and payable in 2011 is the maximum levy for the county for property taxes first due and payable in 2011 plus an amount equal to the combined property tax levy of the consolidating entities for taxes first due and payable in 2010.

State Agencies Affected: DLGF; LSA.

Local Agencies Affected: Marion County; City of Indianapolis; Townships in Marion County; Cities of Indianapolis, Beech Grove, Southport, and Lawrence; Town of Speedway.

Information Sources: Local Government Database; 2005 Marion County Budget; *2006 Indiana Judicial Report*.

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